

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SMITH INTERNATIONAL, INC.,	§	
	§	
Plaintiff,	§	
VS.	§	
	§	
THE EGLE GROUP, L.L.C.,	§	
DON M. EGLE,	§	CIVIL ACTION NO. H-04-4151
and	§	
DANIEL REES, as Trustee of the Trust	§	
for Michele A. Goethe Egle Trust for John	§	
M. Egle, Jr., and the Egle Trust for	§	
Lauren E. Egle,	§	
	§	
Defendants.	§	

MEMORANDUM AND ORDER

Pending before the Court is Plaintiff's motion for reconsideration. Plaintiff correctly points out that the Court erred in holding, in its Memorandum and Order issued January 27, 2006 (Docket No. 150), that Plaintiff's claims against Defendant The Egle Group were barred by the doctrine of *res judicata*. Accordingly, that portion of the January 27 order is hereby **VACATED**. Because the Court finds, however, that Plaintiff's claims against the Egle Group are barred by the applicable statute of limitations, it declines to vacate its grant of summary judgment in favor of The Egle Group. See Purchase Agreement at 24 ¶ 11.6 (exempting the indemnification provision from the two-year statute of limitations governing prompt notice of other claims but not from the four-year statute of limitations imposed by Texas law); TEX. CIV. PRAC. & REM. CODE §16.051 (Vernon 1985) (establishing the four-year limitations period).

Plaintiff argues that, even if the four-year limitations period applies, its claim against the Egle Group is not time-barred because the claim did not accrue until the

conclusion of the Louisiana litigation. The Court has previously resolved this issue against Plaintiff (*see* January 27, 2006 Memorandum and Order, Docket No. 150, at 5) and sees no reason to revisit that ruling today. Accordingly, because Plaintiff's claim against The Egle Group is time-barred, Plaintiff's motion for reconsideration is **DENIED AS MOOT**.

IT IS SO ORDERED.

SIGNED at Houston, Texas, on this the 29th day of March, 2006.

A handwritten signature in dark ink, appearing to read "Keith P. Ellison", written over a horizontal line.

KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

**TO INSURE PROPER NOTICE, EACH PARTY WHO RECEIVES
THIS ORDER SHALL FORWARD A COPY OF IT TO EVERY
OTHER PARTY AND AFFECTED NON-PARTY EVEN THOUGH
THEY MAY HAVE BEEN SENT ONE BY THE COURT.**